

## SUMMER '99 IN BANKRUPTCY LAND

As usual it isn't obvious, so in case no one has mentioned it I wanted you to know summer is here! All of us at the court hope you and your families enjoy it and stay safe!! Now to get it going in a raucous fashion, I will tell you about a few things happening around here that hopefully will interest you SO DON'T FORGET TO SHARE THIS WITH YOUR FINE AND TALENTED STAFFS!

### **CHIEF JUDGE POLLY S. HIGDON TO RETIRE**

It is with great sadness that I must mention our excellent Chief Judge, Polly S. Higdon, will be retiring from the court after more than 16 years of outstanding service out of both offices. Chief Judge Higdon's last day will be August 30, 1999 unless the FBI checks which will follow the nomination of a new judge proceed faster than usual. She has served nobly and well, and has certainly more than upheld the fine tradition we have of dedicated, hard working and practical chief judges which have allowed this court to flourish. She will be sorely missed by all! We wish her much happiness in all her future endeavors!!

### **GENERAL ORDER (G.O.) NO. 99-1**

Yes, for those of you who have been paying attention, this is totally different than the somewhat similarly numbered Misc. Order I told you about in the spring re: a Pilot Mediation Program in PDX. OK yes, this G.O. does bringeth a new local form (LBF #1340), but for a change it also taketh one away (LBF #1367.90).

The new local form LBF #1340 (Certification Re: Tax Returns and Proof of Income) will be required in all cases filed under, or converted to, either Chapter 12 or 13 **AFTER AUGUST 1, 1999** (including the need for an amended version if a wayward tax return happens to slip one's mind). This action was taken to stem the tide of an ever increasing number of confirmation hearings which had to be adjourned due to the debtor's failure to file tax returns and provide copies of same, and/or proof of income, to the trustee. **PLEASE NOTE:** The trustee needs copies **BUT THE COURT DOES NOT!!**

At any moment copies of the new G.O. and LBF #1340 will be (and perhaps already are) available for FREE off the Internet (see the exciting news below), or, if ABSOLUTELY necessary, ONE copy PER FIRM may be obtained in person or via a SASE (the proverbial self-addressed, stamped envelope) sent to one of our offices.

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All other items covered by G.O. 99-1 are now in effect. Pt. 3 simply codifies current practice re: timing of any installment fee payments. Pt. 4 gets rid of a local form (CAN YOU BELIEVE IT! - oops, I mean LBF #1367.90) since we now simultaneously close cases at the time of dismissal. In other words, only LBF #1367.92 may be used with a Motion to Reopen and Vacate a Ch. 13 Dismissal Order (and we will soon have a more applicable version of that LBF on our Web Site so keep reading for details). Pt. 5 adjusts some LBR references now that someone finally cleaned up the numbering in FRBP 2002(a). Finally, good ol' pt. 6 codifies the recent practice of the court now preparing LBF #1250 (Ch. 12 Confirmation Hearing Notice), so all you need do is supply one of those SASEs I mentioned above, along WITH THE PLAN, and we will get #1250 back to you ASAP for service.

Now see, that wasn't nearly as painful as at least some sunburns.

**WWW. . . .**

Holy Internet Spider Man - the Oregon bankruptcy court has built itself a Web (Site that is). WITH FREE ACCESS TO NON-CASE RELATED INFO TO BOOT! Please READ this section CAREFULLY because it tells you about numerous significant current, and rapidly upcoming, changes!!

OK, the answer is [www.orb.uscourts.gov](http://www.orb.uscourts.gov). The question . . . well, I suppose if you don't know that by now you better call Bill Gates and ruin his day. Please be patient with us however. We know this first step is a bit crude and leaves a lot to do, but rest assured we recently hired a very talented Web master to work on the many exciting ideas we have for you!

Oh, did you want details? Well, then, you shall have them. You may now (or at least within the next day or so) access the following **ONLY** from our new (did I mention it was FREE?) Web Site (i.e., not from PACER anymore): General Orders, that new LBF #1340 I discussed in relation to new G.O. 99-1 (but do see the next exciting section to find out about the rest of the local forms), our Local Rules (still in WP5.1 for now), the District Court's Local Rules (e.g., re: bankruptcy referral and appeals), the Registered Agent List, my little epistles such as this one and an index thereto created by our very own Rose Thrush, a list of acceptable versions of software and paper forms for petition and related document preparation, and buttons to quickly send you to either the District Court's or Ninth Circuit Court of Appeal's Web Site. These items were moved totally off PACER and onto the Internet not only because

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it is easier and cheaper for you to access, but also because it is much easier and cheaper for us/you if we do things this way rather than maintaining two unique sets of information in totally different mediums.

What else is already on the Web Site? A list of creditors' preferred addresses for use on matrices. Also, again thanks to Rose, is a list of Frequently Asked Questions (aka FAQs). And, she even provided answers! At some point, once we have taken care of a few bigger ticket items, we want to provide you with an improved interface to those FAQs via the use of links (no, unfortunately not sausages I'm told).

Finally, as a teaser for you antsy ones, I will give you a quick peek at a few coming attractions. Obviously we want to shift over all other relevant options from the PACER Local Options Menu. As with the FAQ interface, we want to improve others such as allowing for the individual download of LBFs and easy links to the actual text of specific LBR sections. While I am on this subject, I would sure appreciate hearing from you regarding other things you would like us to consider for inclusion on our Web Site. We can't necessarily do it all, nor immediately, but we will certainly accommodate as best we can!

"Yeah, so what about the rest of that neat stuff we can already access via the new PACER mirror system?" Glad you asked! I am happy to say we are a pilot court for Internet access to PACER. Among other things, this should provide faster search capabilities and correct some minor bugs in the original program. Best of all, it will still give you virtually "real-time" access to our entire database of open and closed cases and related information!

A sad, but true, fact of life is that electronic access to CASE related data will still require a fee (i.e., so we can continue to fund these improvements). It will, however, change from the current \$.60 per minute for dialup access to PACER to a fee of \$.07 per page for obtaining PACER information through the Internet. But don't forget the good news - access to most of the Local Options Menu items will still be free!

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#### LOCAL FORMS (LBFs) FOR PUBLIC USE

THIS IS IMPORTANT STUFF, SO I WOULD LIKE YOU TO READ IT CAREFULLY! As promised, I will now tell you our plans regarding electronic access to the public LBFs. First, until we do a full-fledged official forms update, we will still take the versions of forms which are included on the 3/15/98 Index of Local Forms For Public Use. Additionally, for stragglers like me (at least until Y2K bites - in all respects of that word), we will leave the old WP5.1 version of the forms on that 3/15/98 Index on PACER until such formal update. Right now our Web Site also contains the old WP5.1 version of the public forms on the 3/15/98 Index. HOWEVER, all new forms and updated versions of those on the 3/15/98 Index will ONLY be found on the Web Site (e.g., #521(10/98), #541.7(9/25/98) and #1340(8/1/99)).

Second, and much more important, in the very near future we will provide some new and improved, albeit optional use, versions of a number of forms. These will be included along with the current versions of all other local forms and a new (but generally not mandatory) 5/99 Index of LBFs for Public Use. All forms included with the 5/99 Index will be in WordPerfect 6, 7, 8 format (i.e., which if you will recall is exactly what I warned you would happen). **PLEASE FEEL FREE TO IMMEDIATELY USE THE NEW VERSION OF ANY FORM WHICH APPEARS WITH THE NEW 5/99 INDEX WHEN IT IS AVAILABLE ON THE INTERNET! KEEP CHECKING THE "WHAT'S NEW" SECTION ON OUR WEB SITE TO FIND OUT WHEN THAT NEW INDEX, AND OTHER NIFTY FEATURES, GET ADDED.**

#### DON'T BE A PREMATURE SERVER!

The court was recently notified that some debtor's attorneys are sending out documents, such as LBF #521 (Notice of Intent) and the Chapter 13 Plan, prior to the the actual filing of a debtor's petition. This leads to a creditor's false impression that a bankruptcy case has in fact been instituted for a party and that the Automatic Stay is in effect. Obviously that practice is UNACCEPTABLE since such may not be the case (no pun intended). To be precise, you are **NOT** to mail copies of bankruptcy case related documents (such as a Notice of Intent or Chapter 13 Plan) PRIOR to the date a debtor's petition is ACTUALLY EITHER filed in the appropriate court office or mailed to such office for filing. The court thanks you for your cooperation on this matter!

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As I also stated in previous letters, LBF #521 was updated and a 10/98 version made available on PACER. Of course since it is newer than 3/15/98 it has now been relocated to the Web Site. The benefit of this version is that it now includes two certifications. The first is for the debtor to sign concerning accuracy of the Statement of Intent information. The second is a separate certification regarding service of the document which is to be signed on the ACTUAL DATE OF SERVICE by either the debtor or attorney (i.e., whoever actually serves it).

**YES, WE COULD USE A BIT MORE HELP FROM SOME OF YOU!**

The folks I work with would like you to even further heighten your awareness regarding the following procedural issues in order to help us all remain as efficient and cost effective as possible:

1. Be sure to verify whether a case is open or closed before filing motions, claims, and other documents.

2. For those of you who work both sides of the state, PLEASE PAY SPECIAL ATTENTION to which office a document should be mailed (e.g., unless it is a new petition a real clue is that the case number begins with a "3" for a PDX case and a "6" for a EUG case).

3. Again re: those SASEs, BE SURE TO:

a. Include them when required (e.g., service of orders, return of documents, etc.).

b. When included for service of orders, etc. be sure there is one for each party in interest (e.g., the debtor even if represented by counsel).

c. Include a corresponding proof of service list.

d. Include your return address.

4. Make sure documents are fully legible and fit on one page (e.g., don't give us bad photocopies).

5. Be sure to timely respond to court deadlines and correspondence from judges.

6. On converted cases the matrix must include ONLY the names and addresses of NEW entities being added at the time, and **NOT** any entity ALREADY ENTERED in the case.

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7. Refer to LBF #104.5 (Creditors' Mailing Addresses Authorized for Use) when preparing a matrix, noting particularly correct addresses for the Internal Revenue Service and Oregon Department of Revenue. If possible, store all these in a master file and just insert them in matrices when appropriate. Remember that this list is now found on our Web Site at [www.orb.uscourts.gov](http://www.orb.uscourts.gov).

8. Don't forget that VCIS has been made easier to use, is also free, is updated every two hours, and now has more phone lines for easier access. You may use VCIS via a touch-tone telephone by calling (503)326-2249 in the Portland area or toll-free from outside Portland at 1-800-726-2227.

We thank you in advance for your fine effort as to these items as well as the myriad of others we ask of you!

#### CONCLUSION

Hopefully by the time you receive this little note, the weather gods will have also allowed the sun to shine. Happy summer everyone, and thanks again for all your support and cooperation!

DATED: JUNE 27, 1999

T. Dunn  
Clerk, U.S. Bankruptcy Court